UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/679,948
Filing Date: October 04, 2000
Appellant(s): BENSON ET AL.

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For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 1, 2006 appealing from the Office

action mailed 09/10/2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial

proceedings which will directly affect or be directly affected by or have a bearing on the

Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection

contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is

correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

PG Publication 2004/0133924 Wilkins et al., 07/08/2004

6092054　　　　　　　　　　　Tackbary　　　　　　　　　　7-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-23, 25-31 and 33-45 are rejected under 35 U.S.C. 102(e) as being

anticipated by Wilkins, US 2004/0133924 A1, "Techniques for Synchronizing any of a

Plurality of Associated Multimedia Assets in a Distributed System".

Regarding claim 1, Wilkins discloses a method for manipulating a digital image

(0002, digital image processing) comprising: identifying an image for processing at a

local client computer (0113, line 7, image processed by the local computer device)

sending the image to a remote server (0113, lines 12-15, saving changes to the server

over the network from a local computing device); manipulating either locally or remotely

parameters associated with the image without modifying the image itself (0113,

transmitting the edit list and other metadata to the remote computing device);

synchronizing the local client computer and remote server including updating metadata

for one of the local client computer and the remote server using metadata of the other.

(0115, lines 1-4, synchronizing all associated multimedia assets whether locally or

remotely)

Regarding claim 2, Wilkins discloses synchronizing step includes updating local

client software for manipulating the image. (0116, line 10-19, synchronizing an updated

edit list for a modified photo)

Regarding claim 3, Wilkins discloses manipulating step includes manipulating a

proxy image associated with the image. (0030, line 17, a modified proxy image)

Regarding claim 4, Wilkins discloses proxy image is a lower resolution image

than the image. (0076, lines 13-14 a resultant proxy image having a lower resolution

that the digital negative, i.e. image)

Regarding claim 5, Wilkins discloses proxy image is a higher resolution image

than the image. (0076, lines 13-14 a resultant proxy image having a higher resolution

that the digital negative, i.e. image)

Regarding claim 6, Wilkins discloses manipulating the proxy image includes

creating metadata describing the manipulations to the image, applying the metadata to

the proxy image and displaying the modified proxy image. (0080, lines 1-12, edit list and

links between images encoded in meta-data that allows one to open and view any

image)

Regarding claim 7, Wilkins discloses manipulating step includes . . . a. selecting

between the image and a proxy image . . . , b. modifying the selected image . . . , and c.

displaying the modified selected image. (0087, lines 1-10, detecting the incoming

image as either a proxy image, a modified image, and determining the method of

association, and generating an output)

Regarding claim 8, Wilkins discloses storing the metadata as a file associated

with the image at each of the local client computer and the remote server. (0081, lines

1-14, the edit list, i.e. meta-data, is a representative file associated with a different

multimedia assets)

Regarding claim 9, Wilkins discloses rotation information. (0117, lines 7-8,

image-editing operation, such as rotate)

Regarding claim 10, Wilkins discloses cropping information. (0117, lines 7-8,

image editing operation, such as crop)

Regarding claim 11, Wilkins discloses metadata includes user interface state

information. (0075, lines 1-6, operations that are part of the state description)

Regarding claim 12, Wilkins discloses step of manipulating the parameters

includes capturing state information defining a state of the manipulations at a predefined

time and selecting a previous state at the request of the user. (0055, lines 1-7, state

operation which describe an operation applied to the photo in which each operation can

be turned on and off for the edit list parameter associated with the parameter, which

Examiner interprets as a predefined time and selection of a previous state by the user)

Regarding claim 13, Wilkins discloses capturing a history of the state information

and selecting any of the previous states without traversing back through each

intermediary state . . . (0055, lines 1-11, allow a user to reapply operations identified by

the edit list and undo or disable other operations regardless of the order and

independent of the order, which Examiner interprets as not traversing the list, because

the operations are not dependent on the other operations)

Regarding claim 14, Wilkins discloses parameter that can be manipulated can be

selected order parameters. (0078, lines 8-10, meta-data including ordering information)

Regarding claim 15, Wilkins discloses image parameters include the state of the

user interface. (0075, lines 1-6, operations that are part of the state description)

Regarding claim 16, Wilkins discloses image parameters include image archival

information. (0055, lines 1-7, state operation which describe an operation applied to the

photo in which each operation can be turned on and off for the edit list parameter

associated with the parameter, which Examiner interprets as a predefined time and

selection of a previous state, i.e. archival information)

Regarding claim 17, Wilkins discloses image parameters include annotation

information. (0102, lines 1-7, the edit list data associated with the image can include

text strings, which Examiner interprets as inclusive of annotation information)

Regarding claim 18, Wilkins discloses image parameters include backprint

information. (0091, lines 1-15, a printer edit list passed through to a printer port, which

Examiner interprets as back print information)

Regarding claim 19, Wilkins discloses image parameters include order

information. (0078, lines 8-10, meta-data including ordering information)

Regarding claim 20, Wilkins discloses image parameters include pricing

information. (0078, lines 8-10, meta-data including price information)

Regarding claim 21, Wilkins discloses image parameters include image archival

information. (0055, lines 1-7, state operation which describe an operation applied to the

photo in which each operation can be turned on and off for the edit list parameter

associated with the parameter, which Examiner interprets as a predefined time and

selection of a previous state, i.e. archival information)

Regarding claim 22, Wilkins discloses defining a personal template that

describes a particular configuration for the parameters . . . (0075, lines 1-6, edit list

includes a list of individual operations, which Examiner interprets as a personal

template)

Regarding claim 23, Wilkins discloses account parameters include verification

data for the client. (0078, lines 1-8, security feature such as an encryption key to

prevent unauthorized access with a key for how to access the photo specified by the

edit list, which Examiner interprets as verification)

Regarding claims 25 and 26, Wilkins discloses synchronization step is bi-

directional (includes checking for conflicts between metadata . . .). (0116, lines 15-22,

efficiently synchronizing the modified photos over a network to maintain coherency

when network usage vs. processor time is a consideration, which Examiner interprets

as conflicts)

Regarding claims 27-29, Wilkins discloses receiving a selection from the user

regarding the client and synchronizing the local client computer and remote server . . .

storing two different states of the metadata at each . . . alerting the user includes

displaying a dialog box to the user from which a selection can be made. (0116, lines 15-

22, efficiently synchronizing the modified photos over a network to maintain coherency

when network usage vs. processor time is a consideration, which Examiner interprets

as selection for a user needs)

Regarding claim 30, Wilkins discloses a printer output file including profiles for

different printers available through the remote server . . . (0092, lines 1-4, edit list allow

a user to toggle viewing/output display)

Regarding claim 31, Wilkins discloses displaying on both the local client

computer and the remote server a similar image metaphor for manipulating the original

image. (0115-0117, a digital image cached locally or remotely synchronized to reflect

all modification of an associated multimedia asset)

Regarding claim 33, Wilkins discloses further comprising prompting the user to

experience a new remote server function . . . (0115-0117, a digital image cached locally

or remotely synchronized to reflect all modifications of an associated multimedia asset)

Regarding claim 34, Wilkins discloses metadata describing the manipulations

without modifying the image, the metadata being stored at the computer . . . (0122-

0123, the edit list is a part of a file embedded within a digital image, stored in memory)

Regarding claim 35, Wilkins discloses local client computer is selected form the

group of PDA, portable computer, kiosk, fax machine, digital camera and docking

station. (0082, lines 4-26, image source such as camera, kiosk), and other digital image

sources)

Regarding claim 36, Wilkins discloses connection between the local client

computer and remote server is wireless. (0094, lines 13-20, I/O ports connected to

transmit the image provided interconnected, which Examiner interprets as inclusive of a

wireless port)

Regarding claims 37-39, Wilkins discloses synchronization step occurs at a next

open session (end of current session; in real time) . . . (0115-0117, a digital image

cached locally or remotely synchronized to reflect all modifications of an associated

multimedia asset)

Regarding claim 40, Wilkins discloses parameters include print parameters.

(0085, lines 10-12, edit list configured to modify a digital image including commands to

printers)

Regarding claim 41, Wilkins discloses parameters include print calibration

parameters. (0085, lines 13-14, re-rasterizing a digital image to a printing need, which

Examiner interprets as print calibrations)

Regarding claim 42, Wilkins discloses parameters include display parameters.

(0092, lines 1-4, edit list could all user to toggle viewing/output display states)

As per independent claims 43-45, they are rejected based upon similar rational

as above independent claim 1.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 24 and 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Wilkins as applied to claim 1 above, further in view of Tackbary et al., U.S. Patent

Number 6,092,054.

        Regarding claim 24 and 32, Wilkins discloses order parameters. (0078)

        Wilkins however, fails to disclose envelope and an image metaphor including an

envelope for dropping selected images into when ordering.

        Tackbary discloses an envelope for selected images for ordering information.(col.

7, lines 34-61) ﹅

        It would have been obvious to one of ordinary skill in the art at the time of the

invention of Wilkins to include in the order information and envelope for processing

selected images, as disclosed in Tackbary, to convey the urgency of the request for the

processed images by the user to a processing center.

        (10) Response to Argument

        Applicant argues that Wilkins fails to show identifying an image for processing at

a local client computer; sending the image to a remote server; manipulating either

locally or remotely parameters associated with the image without modifying the image

itself; and synchronizing the local client computer and the remote server including

updating metadata for one of the local client computer and the remote server using

metadata of the other.

Wilkins discloses identifying an image for processing at a local client computer

(602, open image); sending the image to a remote server (figure 6); manipulating either

locally or remotely parameters associated with the image (604, 606, embedded XML

data and external XML data); and synchronizing the local client computer and the

remote server (458, synchronize associated distributed multimedia assets) including

updating metadata for one of the local client computer and the remote server (612,

retrieve and process required XML files) using metadata of the other (622 and 624,

store edit list data in separate file/embed edit list data in image file)

Applicant argues that Wilkins fails to disclose identify an image for processing at

the local computer and send the image to a remote server. Wilkins discloses a

processed digital image (figure 3) and further discloses host computers (402-1, 402-2,

202-n) and server computer (404) each having processed digital images, digital

negative and associated edit list) in a bi-direction network. Applicant further argues that

Wilkins fails to disclose synchronizing step includes updating locating client software for

manipulating the image. Wilkins discloses synchronizing of a distributed multimedia

asset to image editing operation and changes in the resolution, format, etc., (paragraph

0117).

Applicant argues that Wilkins fails to disclose determining if a session is open

between the local client computer (end of current session; in real time) and (0115-0117,

a digital image cached locally or remotely synchronized to reflect all modifications of an

associated multimedia asset); capturing, at the client computer when the session is

closed, metadata describing any manipulations by the user of an image; capturing at the

remote sever when the session is opened, metadata describing manipulations of the

image by the user; and synchronizing the metadata captured at each of the local client

computer and the remote server when the session is open.

Applicant argues that Wilkins fails to show dividing image management, archival,

and printing functions among the local client computer and the remote server including

performing image management at either of the local client computer and the remote

server, and performing image archive and printing functions at the remote server; and

synchronizing image management data between the local client computer and the

remote server.

Applicant further argues that Wilkins fails to show the client software for

executing on a local client computer including instructions for identifying an original

image for processing at the local client computer, uploading the original image to a

remote server, receiving a user selection to locally or remotely process the original

image; if local processing is selected, locally manipulating parameters associated with

the original image including storing, on the local client computer, metadata describing

the manipulations without modifying the original image, if remote processing is selected,

opening a session with remote server; and remote server software for executing on the

remote server including instructions for receiving the original image, manipulating

parameters associated with the original image in accordance with instructions received

form the local processor storing metadata describing the manipulations without

modifying the original image, and at each session between the local client computer and

the remote server, synchronizing the local client compute rand the remote server

including updating metadata for one of the local client computer and the remote server

using metadata of the other.

Wilkins discloses client software for executing on a local client computer

including instructions for identifying an original image for processing at the local client

computer, uploading the original image to a remote server, receiving a user selection to

locally or remotely process the original image (paragraph 0114); if local processing is

selected, locally manipulating parameters associated with the original image including

storing, on the local client computer, metadata describing the manipulations without

modifying the original image (paragraph 0115), if remote processing is selected,

opening a session with remote server; and remote server software for executing on the

remote server including instructions for receiving the original image, manipulating

parameters associated with the original image in accordance with instructions received

form the local processor storing metadata describing the manipulations without

modifying the original image (paragraph 0116), and at each session between the local

client computer and the remote server, synchronizing the local client computer and the

remote server including updating metadata for one of the local client computer and the

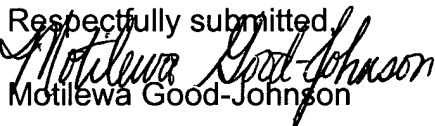remote server using metadata of the other (paragraph 0117)

In response to applicant's argument that there is no suggestion to combine the

references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the

references themselves or in the knowledge generally available to one of ordinary skill in

the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time of the invention of Wilkins to include in the order information and envelope for processing selected images, as disclosed in Tackbary, to convey the request for the processed images by the user to a processing center.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Motilewa Good-Johnson

Conferees:

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